Lion, EUTORS APPEAL

W. R. HUNT, PRESIDENT. F. A. TYLER, SECRETARY.

MEMPHIS APPEAR

OFFICIAL JOURNAL OF THE CITY.

MATTHEW C. GALLAWAT, Political Eds. J. M. KEATING,

THURSDAY MORNING: AUGUST, 18, 1870

tion of men ineligible to the position cases will result in giving place to an objectionable man or a political enemy. We trust the District Conventhat body of fanatics. While the obligatory:" Democratic strength is increasing in

unnouncement: For Congress. We are anthorized to announce W. P. N.R. of Haywood, a candidate for Delegate the Confederate Congress, from the Tenth

farers in the district copy. The contest was full of interest and excitement. The candidates canvassed the district, made inflammatory speeches and wrote all sorts of circulars brimming with "sympathy" and devotion to the cause of the rebellion. The election was held on the 2nd of August, and in the APPEAL of the 11th of August, 1861, we find the following official vote, of the "Tenth Congressional District:"

Sheller 1502 487 776 396 474 508 Anadrson 438 898 154 70 41 122 Haywood, 61 28 155 377 206 67 Fayette 198 78 158 94 80 67 Hardeman 117 115 127 480 90 30 2548 2303 4580 1401 1151 737 226

In July 1862, just twelve months after Judge Bond was a candidate for delegate to the Confederate Congress, the Congress of the United States

I, A. B., do solemnly swear (oraffirm) hat I have never voluntarily borne arms grainst the United States since I have en a citizen thereof; that I have volunrily given no aid, countenance, counsel or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor atempted to exercise the functions of any rement, authority, power or consitu-ion, within the United States, hostile or inimical thereto, and I do further (wear (or affirm) that to the best of my mowledge and ability, I will support and defend the Constitution of the United ites against all enemies, foreign and iomestic; and that I will bear true faith and allegiance to the same; that I take his obligation freely, without any men-al reservation or purpose of evasion, and hat J will well and faithfully discharge he duties of the office on which I am about to enter, so help me God.

The set further prescribing that any person "falsely taking the oath" shall be

ally of perjury, and on conviction, in a to the penalties now prescribe or the offense, shall be deprived of his lines, and rendered incapable for over other of holding any office or place under no United States. This oath and penalty applies to every person that has given and, countenance, counsel or encouragement to persons engaged in armed hostility to the Government of the United

Can Judge Bond conscientiously take the oath? or would it not stick in his own gullet like Macbeth's "Amen?" He is required to swear that he has "voluntarily given no aid, countenance, council, or encouragement" that he has "neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority or pretended authority, in hostility to

Thus have we shown Judge Bond's position, and the oath he is required position, and the oath he is required to take, and this we have done simply as a faithful journalist. We have no objection to Judge Bond's nomination. He is a man of splendid abilities, of unimpeachable integrity, eminently sound upon the political issues of the day, and would make a useful member of Congress. The APPEAL has no candidate of its own for Congress, except the nominee of the Convention. But we write this in the Interest of Judge Bond's nomination.

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But we write this in the Interest of Judge Bond's nomination. He is a man of splendid abilities, of unimpeachable integrity, eminently sound upon the political issues of the day, and would make a useful member of Congress. The APPEAL has no carries when the debates in Congress at the time fully order a man to be hanged for that which was no crine when the amendment was proposed. It is not not not intended, I conclude that the true construction of the fully order a man to be hanged for the debates in Congress at the time where and say (though it is not necessary to my argument) that where and say (though it is not necessary to my argument) that where and say (though it is not necessary to my argument) that where a people were living under a great injustice, and be in conflict with our universal the Constitution, as such a constitution, as such a constitution, as such a constitution would operate a great injustice, and be in conflict with our universal the Constitution, as such a constitution would operate a great injustice, and be in conflict with our universal the Constitution, as such a constitution, as such a constitution would operate a great injustice, and be in conflict with our universal the Constitution forbidding bills of at the full of country.

The New York Sun, a Republican journal, speaking of President Grant.

No inchoate treaty can empower him to order the naval forces of the United States to take part either in a foreign or a domestic war in St. Domingo. It is an act of pure usurpation on his part, that eught to be dealt with severely as soon as Congress again resumes the exercise of its constitutional functions,

Radicalism. nave the credit for it. It will be rethat 47,000 votes were

the lie, and says: rinding in the Primes a table of certain unofficial returns from the present census of total population in particular election districts at the May election, we hastily accepted the figures and made them the basis of some rather out-spoken comment. But it turns out the figures were grossly The APPEAL has uniformly taken the position that no man who has inaccurate, the vote of a whole ward be-disabilities of any kind should be inggiven as that of a single election disnominated for office. This position we intend to adhere to. The elecnise never to do so any more.

Argument of Hon, E. H. Ewing.

We find in the Nashville Banner of tion to be held for the purpose of nominating a candidate for Congress, will the validity and construction of the tion to be held for the purpose of nominating a candidate for Congress, will the validity and construction of the Union Bank vs. State.

It might well be questioned, if the upon other and different grounds, different from those embraced by the who has disabilities shall be considered by the Convention. It is folly and child's play to send a man to Congress "accomplished fact" as that beyond who will be returned home by which "there can be nothing more that seemed to look to such a power. men are to have control of their ac-

The third section of the Amendthe House of Representatives, let us shall be a Senator or Representative add to the number by sending men in Congress, or Elector of President who can take any oath which Radi- and Vice-President, or hold any office, cal devilty may concect. With this civil or military, under the United States, or under any State, who having previously taken an oath as a member of the Constitution had been asked the question, other power. Experience fixes an age other power. cal devilty may concoct. With this civil or military, under the United if he has no disabilities? Let him hold communion with his own honest heart and give a candid answer. State Legislature, or as an executive or judicial officer of any State, to sup- ladge Bond has great popularity, and Judge Bond has great popularity, and deservedly so, throughout the Dis-States, shall have engaged in insurtrict. His nomination by a Conven- rection or rebellion against the same tion is by no means improbable. This or given aid or comfort to the enemies fact unakes it more important that his thereof. But Congress may, by a vote position be thoroughly understood. such disability." To this section, as We will give the facts and let Judge a provision to operate prospectively. Band and the Convention decide the there is no objection. But to it, as a matter. In the Appeal of the 9th provision to operate retrospectively, there is grave and serious objection. of June, 1861, we find the following

In this latter view it is an attempt

to reach beyond the scope of the amending power given in the Fifth Article of the Constitution of the Uni-ted States. For in this view it undertakes to say that no one who has done the acts mentioned in it shall hold office, though the punishment of these facts, previous to the adoption of this amendment, was not exclusion from office; and, notwithstanding the party committing them may be de-livered from their consequences by prescription under the act of 1790, and restored to all of his rights and privileges by executive pardon. No one contend that a law of Congress could reach so far. It is agreed on all hands that the provision in the Con-I, section 9, clause 3, excludes such a power. The clause referred to is in these words: "No bill of attainder or ex post facto law shall be passed." But it is contended that the amending power above referred to is without power above referred to is without power above referred to the extent. titution of the United States, Article above. This proposition cannot, in my opinion, be sustained.

Under the amending power of the fifth article of the Constitution of the United States, all will agree that it is not competent to establish either a monarchy or a despotism. It is not competent to abolish a State or to incorporate two States together—it is not competent in any way to destroy the agreement to the preferred. All of these canons are sentilened by another it can be avoided, the latter construction is to be preferred. Fourth, That where a retrospective force given to a statute of the Board, room furnished, and fuel, \$15 per The Governor is bound to act upon a retrospective force given to a statute of the Board, room furnished, and fuel, \$15 per The Governor is bound to act upon a retrospective force given to a statute of the Board, room furnished, and fuel, \$15 per The Governor is bound to act upon a retrospective force given to a statute of the Board, room furnished, and fuel, \$15 per The Governor is bound to act upon a retrospective force given to a statute of the Board, room furnished, and fuel, \$15 per The Governor is bound to act upon a retrospective force given to a statute of the goard of Trustees. The Governor is found to act upon a retrospective force given to a statute of the goard of Trustees. The Governor is bound to act upon a retrospective force given to a statute of the goard of Trustees. The Governor is bound to act upon a retrospective force given to a statute of the goard of Trustees. The goard of Trustees are the statute of the goard of Trustees. The goard of Trustees are the statute of the goard of Trustees. The goard of Trustees are the goard of Trustees. The goard of Trustees are the goard of Trustees are the goard of Trustees. The goard of Trustees are the goard of Trustees. The goard of Trustees are the goard of Trustees. The goard of Trustees are the goard of Trustees. The goard of Trustees are the goard of Trustees are the goard of Trustees. The goard of Trustees are the goard of Trustees are the goard of Trustees. The goard of Trustees are the goard of Trustees are the go There are then limits to the amend-

But we write this in the interest of Judge Bond—for the question of his disabilities will be sprung upon him in the Convention, and if he has no disabilities we are doing him a favor; if he is unfortunately encumbered with disabilities, we will have discharged our duty to our party and the country.

Which pardon had been extended. Such an exercise of power would be mere brute force. This, however, is a mount to nothing except that some members, for abundant caution, wished to have word; inserted clearly to repel a retrospective construction, and that such insertion was refused.

If these can be looked to at all upon a question of construction, they amount to nothing except that some members, for abundant caution, wished to have word; inserted clearly to repel a retrospective construction, and that such insertion was refused.

If, however, the words of the against all the rules of logic, law and reason. It is to make the minor include the major.

But suppose the facts and law above amendment should be held necessarily representive in their meaning, then

by the act of 1790, and were pardoned engaged in showing up the New York to the facts, and could a party under such inquiry be expatriated, denied civil rights or be divested of property?

lie, that 47,000 votes were Certainly, at first blush, the common polled in a District which had only sense of mankind would revolt at 20,000 voters. Mr. Greeley honorably refuses, even by silence, to persist in acquittal, it rendears the acts as if they never were. The Supreme Court Finding in the Tieses a table of certain of the United States in the case of ample of the exercise of such a power as that claimed, about which there is no dispute, and which is universally punishment and biots out of existance the guilt, so that in the eye of the law a Constitution an amending power, we have the guilt, so that in the eye of the law a Constitution an amending power, we find the sade there is a notable expense of the law and provided the figures and which is universally accorded to the Constitution, making a Constitution an amending power, we first the sade there is a notable expense of the law and the expense of such a power as that claimed, about which there is a notable expense of the law and the expense of the expe then, this amendment in the construc-

> nothing in the Constitution as it ex- with or without written constitution isted previously to this amendment, some age has been assumed at which

passed the following, familiarly think proper," has no relation to the known as the "Iron-Clad Oath:"

LAB, do solemnly swear (oraffirm)

LAB, do solemnly swear (oraffirm)

Label Clade States.

The constitution of the state in this case it becomes the parent of laws which on their face are in conflict. Supreme Court of Tennessee, It is showned as a count of Tennessee The people of the United States with another Constitutional provicannot langually meet in convention to altar, reform or abolish the Govern- ficulty? It is simple and easy. It is and having taken the usual oath to ment. They may meet in convention to give the amendment only a prospective bearing, and this is its true gave aid and comfort to the enemies in to propose amendments to the one. I do not refer to the horn-books Constitution, which, when ratified by of the law in regard to the constructive-fourths of the States, through tion of statutes; but who ever chooses retended authority in hostility to the miled States; that I have not yielded a come parts of that instrument. The people can only propose, and they can these to be correct causes of conventions. come parts of that instrument. The people can only propose, and they can only propose amendments. This is not an uprooting or abolishing power. The people of a State may abolish and reform their Government, even to the reform their Government, even to the extent of making a despotism or monarchy of it, if it were not for the reform their former one by implication, unless the straining power of the fourth article of the Constitution of the United States.

Under the amending power of the United States.

Under the amending power of the United States.

> the structure and basis of union, are sanctioned by decisions of our own applicant for the commission. These What is an amending power in its nature? Its very name implies limitation. Under its scope certainly a power can not be exercised which would directly strike down or indirectly strike down or indirectly strike down or indirectly undermine the foundations of he Union structure. As an illustrahaving previously taken an oath, and shall have engaged in rebellion, shall not be a Senator." Now suppose, at the adoption of this amendment, to insert a provision directing and requiring that a certain number of individuals guilty of no crime, or having been guilty of a crime for which they have been pardioned, to be hanged. This would be the assertion of despotic power. Especially would it be so whilst the provisions in the Constitution still remained in full force, forbidding bills of attainder and expost facto laws, under which all ex post facto laws, under which all provision against ex post facto laws in the prescription of the act of 1790 men had at least supposed them-

THE MEMPHIS APPEAL
Is published daily and weakly by the Memphis Appeal Publishing Company, at the Appeal members, one year, still on of lowers of their country, everywhere, the timely, judiclous and able Appeal members, one year, still per mentia; withstemant perfects as the state of the published in the Appeal and cere post faceto laws might not be granted to a broad profile. A Heart Statement of the South as well as all as absentiates, one year, still, a published in the Appeal and mer seed in the perfect of the statement of the South as units at Theorem 19 and the published in the Appeal and most seed in the statement of the South as units at Theorem 20 and the following person and the bodden, person and the bodden, person and the bodden, person and the statement of the construction of the co before the amendment was adopted? and next year the black heads, and the third year the bald heads, we been acquitted of crime by a jury, should at the end of the third year. GREELEY is manly, and he should save the credit for it. It will be recould the amendment be still brought to bear upon him in a new inquiry into the facts, and could a party under the party to be anected that not long since he was to the facts, and could a party under the party to be anected that the end of the third year have but a meagre minority left to fill to be pardoned. Suppose the party to be anected that the end of the third year have but a meagre minority left to fill to be pardoned. Suppose the party to be anected that the end of the third year have but a meagre minority left to fill to be pardoned. Suppose the party to be anected that the end of the third year have but a meagre minority left to fill to be pardoned. Suppose the party to be anected that the end of the third year have but a meagre minority left to fill to be pardoned. Suppose the party to be anected that the end of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill to be an expectation of the third year have but a meagre minority left to fill the party of the party and the party of the facts and the pa

> But it is said there is a notable exthe offender is as innocent as if he had viz; that of excluding from office men stitution, pardoned rebels are not a le never committed the offense; it makes him as it were a new man, and gives him a new credit and capacity? If,

tion put upon it can be sustained, it must be upon the idea that omnipotence resides in the amending power.

This argument, if it may be called such, is the result of a false analogy (a most fruitful source of error). I shall for which they aspire and have been not undertake to question the power no cause; but arbitrarily as for offenses, for instance which are obliterated. Constitution and the bond of union of the States, wherever may be the power of the people under their several power of the people under their several State organizations. As to the effect might even admit it to be an excep-

The exercise of such a power to its fullest extent might, I think, be shown to result in a concentrated despotism.

The exercise of such a power to its tions, their property, and to exercise rights and privileges as members of a community. This is ex rei necessitate; it is axiomatic, an ultimate truth, that It is true that by the words of the an infant can not safely be intrusted Constitution it is Congress and the with any of these powers. Some age States alone that are forbidden to pass ject in its nature to alteration. It l 'We have cut off the power from the is a matter for delicate handling; the States even in convention of their provisions in regard to it may or people, we have forbidden it to Conmay not be inserted in a constitution:

gress, what power remains?" Would it have occurred to any one to say it table, even for an existing generastill rests in the amending power of the fifth article. Did not every one (as it always does) to all; none should then suppose, and have not all supposed, till the late exigency, that it and never has any reference to acts nad died out from among freemen and or conduct. An exclusion founded on become a memory only in the history of dead despotisms. Bills of attainder and ex post facto laws were never, in fact, anything but names for unbridled exercise of tyrannical will— some or necessary. In different countries different ages have been assumed But this Amendment, suppose it to both as to general control of action be valid; as it stands, it is inert; it needs laws of Congress for its enforcement; now when these laws are got on the statute book they are found to be bills of attainder and ex post facto laws. How is this? Congress is forbidden to pass laws of this description by the third clause of the ninth section of the fourth article; still it is said the laws in question are author. said the laws in question are author- the Fourteenth Amendment (as consaid the laws in question are author-ized by the Fourteenth Amendment strued by some) stand upon any such and that it is a valid amendment, ground? Can it plead any such pre-What are we to say then? Does the scription? And is there any true anenough to say that the doors have been thrown wide open to bills of attainder and ex post facto laws. But individuals are selected undistinguishable (in law) from any others, belonging to no class recognized by law, and on it is by implication. Now even in the repeal of one statute by another where it is by implication, must be clear and almost inevitable. How danger ous to apply this doctrine of implied to alter, reform or abolish the government in such manner as they may think proper," has no relation to the it can be made a partial repeal only by implication. Now even in the remon rights of citizens; these rights, charged against him that, being or having been a member of Congress support the Constitution of the United States, he engaged in repellion, or here stated and urged are not admit

Supreme Court of Tennessee. It is of the United States. The facts as ted by Mr. Nicholson, and it is admitted by those who make the charge that the offense, if committed, is pre scribed by the act of Congress of 1790, and that Mr. Nicholson received the pardon of the President before the

sis equivalent to a bill of attainder or an expost facto law. It is an act of despotism; forbidden to Congress by the Constitution, and by the very structure and basis of the Union which is republican freedom and protection from arbitrary action, forbidden to the General Government. The amending power can not overlap the barriers of the nature of the Union.

The question here discussed is not whether, under the amending power, the provision against bills of attainder.

The provision against bills of attainder of the provision against bills of attainder.

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The question here discussed is not whether, under the amendment is void for amendment is void for attainder the amendment is void for attainder the amendment is void for want of authority under the amendment is void for want of authority under the amendment is void for want of authority under the amendment by those who deny lar. N.'s right to the constitution.

But it is said that, to deny certain persons, the right of holding office is not a bill of attainder, nor an expost factor and the facts whether is the Governor can have no authority to do so. Suppose the construction given to the Fourteenth Amendment by those who deny lar. N.'s right to the constitution.

But it is said that, to deny certain persons, the right of holding office is not a bill of attainder, nor an expost factor and the facts whether is the Governor can have no authority to do so. Suppose the construction given to the fourteenth Amendment by those who deny lar.

I sum them up, then, thus:
1. The Fourteenth Amendment

been, that they are in no manner distinguishable from the mass of their fellow-citizens, and that if singled out at all it is the same as if they were excluded by name and for the power to amend the Constitution of the United States, nothing can be done which would be equivalent to a bill of attainder and expost facto law.

3. If the intention was to be constitution of the United States, nothing can be done which would be equivalent to a bill of attainder and expost facto law. retro-active, it is equivalent to a bill of attainder and ex post facto law. 4. The amending power does not extend to the right of excluding individuals from civil rights, who occupy no legal class, this would be arbitrary, despotic and inconsistent with the structure and basis of the Federal Con-

> 5. It is more than doubtful whether office holding in the States is subject to regulation under the amending power in the Constitution. There is no analogy between exclusion as to age, and exclusion for

> 7. Independently of all this, the Governor must issue the commis because he can only look at a prima facie case and this is made out; he must leave facts and law of offense if triable at all to a subsequent quo war runto or indictment. EDWIN H. EWING.

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For further information address the Mothe uperior of the Academy. aug5 Armour Institute FOR YOUNG LADIES. 271 Madison Street,

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THE largest college in Memphis, and the cheapest college in the world, opens the lith September, payable in advance, quarterly, G. R. Bridges and indy in charge of Boarding Department; Miss J. H. Simmons in charge of Masic Department. Board (all found), \$20 per mouth; all Literary Branches), \$6; Music (Vocal and Instrumental), \$6. 3127 J. D. MEREDITH, President.

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TUITION: Per scholastic year, preparatory, \$40, \$50, and \$60. and \$80.

Per scholastic year, collegiate, \$60, \$70 and \$80.

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FEMALE INSTITUTE Maury County. Tenn. Rt. Rev. C. T. Quintard, D.D., S.T.D., Visitor

THURSDAY, SEPTEMBER 1st, 1870.

CLARKSVILLE, TENNESSEE.

address auli daw

Rev. George Beckett, Rector. Mrs. M. N. Martin, Principal. Assisted by a full and effective corps o experienced teache £. The Fall Term of the Year 1870 WILL COMMENCE

Monday, Sept. 12. es For circulars and further informal address REV. GEO. BECKETT, 1920 Columbia, Tenness JOHN ZENT, ESQ., At Williams & Co.'s Lumber Yard, MRS. MAY'S SCHOOL, BEN. K. PULLEN. INCORPORATED by act of General Asse

TURLEY ENGLISH AND FRENCH FEMALE INSTITUTE. Memphis, Tennessee, Corner of Wellington and Linden A full and efficient corps of experienced The Fall Term of the year 1870 will com

so For circular and further informat Stewart College, Coaches

PARTEE & HARBERT. COTTON FACTORS. apls Il Union Street.

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And Commission Merchants, Union St., Lee Block, Memphis, Tenn. Special attention given to filling or DER. W. PRACOCE, J. S. CARRUTHERS R. R. AYCOCK, of T. L. Blies & Co., Paris. PEAGOCK, CARRUTHERS & CO., COTTON FACTORS

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15 UNION STREET, Memphis, Tenn. DeSoto and Panola counties, Miss. je? W. P. & L. BOND. Attorneys-at-Law.

And General Collecting Agents **ELECTION NOTICE.**

Masonic Temple of Memphis. Masonic Temple of Memphis,

SECTION 3. He is further enocied, That when the sum of Seventy-Five Thousand Dollars shall have been subscribed, the said persons named in the first section of this A ct, or any one of them, may call the Stockholders together, after having given ten days' notice in a daily newspaper published in Memphis, and hold an election for a President and five Directors to manage the affairs of said Association. Association.

The sum subscribed being aireasty largely it excess of the amount required for organization, the undersigned Incorporators hereb give notice that an election for a Presiden and five Directors will be held at Recco Hall southeast corner of Madison and Second

On Thursday, the 18th of August Between the hours of three and six o'clock in. All proxies must be prepared to exhib evidence in writing of their authority to at Members of the Masonic Fraternity with ave not yet done so, and others desiring engage in this enterprise, are now invited come forward and subscribe, in order thall may participate in the first election for officers of the Association. Subscription books will be kept open unti the day of the election at the offices of MANSFIELD & HIGBEE. MANSFIELD & HIGHES, 301 and 303 Main atrest. EDMONDS, PETTIGREW & CO., 3.6 Front street.

JOHN ZENT Main street,

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JOHN ZENT.
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C. B. CHURCH,
JOHN CUBBINS,
JOHN OVERTON, Jr.,
A. J. WHEELER,
P. M. STANLEY,
H. H. HIGBEE,
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S. H. BROOKS,
CHARLES KORTRECHT,
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GEORGE MELLERSH,
J. HAPPEK,
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D. C. TRADER,
A. E. FRANKLAND,
H. J. LYNN,
JACK HALSTEAD,
J. D. BEARD,
W. A. EDMONDS,
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MORTON E. HOWELIA, ells Clerk and Master.

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